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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|------------------------|
| 09/827,803 | 04/06/2001 | Efrain Torres | HILB / 720 | 6869 |
| 26875 7590 07/25/2008 WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202 | | | EXAMINER DESHPANDE, KALYAN K | |
| | | | ART UNIT 3625 | PAPER NUMBER |
| | | | MAIL DATE 07/25/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/827,803

Applicant(s)

TORRES ET AL.

Examiner

Kalyan K. Deshpande

Art Unit

3625

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-29, 59, 61, 62, 65, 66 and 70-93 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-29, 59, 61, 62, 65, 66 and 70-93 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Prosecution History Summary

- Claims 5-7, 30-58, 60, 63-64 and 67-69 have been cancelled.
- Claims 1-4, 8-29, 59, 61-62, 65-66 and 70-93 are pending in the instant application.

Response to Amendments

Applicants' amendments to claims 1, 59, and 93 are acknowledged. Examiner is withdrawing the previously asserted claim objections and the 35 U.S.C. 101 rejections based on Applicants' amendments.

Response to Arguments

Applicants' arguments have been fully considered but are not found persuasive. Applicants argues 1) Segal and Buy fail to teach "a relationship between a funeral service provider and a multi-provider central database", as per claim 65 (see Remarks page 14), 2) Segal and Buy fail to teach a "budgetary parameter", as per claims 70 and 93 (see Remarks page 14), 3) Segal and Buy fail to teach a lifestyle "is associated with at least one of a profession of the decedent or a hobby of the decedent" as per claims 1 and 59 (see Remarks page 19), and 4) Segal and Buy fail to teach limitations of several dependant claims, including claims 15, 19-20, 78, 82-83, and 88 (see Remarks pages 20-22).

In response to Applicants' argument Segal and Buy fail to teach "a relationship between a funeral service provider and a multi-provider central database", as per claim 65 (see Remarks page 14), Examiner respectfully disagrees. First, Applicants broadly

allege that Examiner has failed to address every limitation of claim 65 and that claim 65 is distinguished from claims 1-4 and 8-29. Examiner notes that Applicants' have only provided one distinguishing characteristic and thus not other distinguishing limitations are found in claim 65 from claims 1-4 and 8-29. Second, Applicants' argument is confusing. Applicants state that Segal and Buy fail to teach linking to separate **web sites** and then conclusively state that Segal and Buy fail to teach a multi-provider **database**, Examiner is confused as to how Applicants' are interchangeably using the terms "web sites" and "database". If Applicants' persist in this argument, Examiner requests further clarification. Finally, Examiner submits that Segal explicitly teaches databases for multi-service providers. In figures 1 and 2, Segal clearly discloses a "service provider database" (see Figure 2, "21"). Thus, the previously asserted grounds of rejection stands and Examiner is making this rejection final.

In response to Applicants' argument Segal and Buy fail to teach a "budgetary parameter", as per claims 70 and 93 (see Remarks page 14), Examiner respectfully disagrees. Applicants appear to be merely summarizing the subject matter of the present invention, summarizing select portions of the cited references, and then conclusively stating:

However, as argued above, these paragraphs merely disclose the ala carte listing of services and products, and the ability of a user to select a service or product based upon the price of that service or product, which is not the same as guiding a consumer based upon a budgetary parameters.

(see Remarks page 17). Examiner submits that such arguments are mere allegations of patentability and fail to comply with 37 C.F.R. 1.111(b). Applicants fail to provide any rationale as to how enabling a user to selected options and parameters that

define services and costs, is different from "guiding" a consumer. If Applicants are fixated on the terms "guiding" or "budgetary", Applicants are requested to provide some sort of rationale or explanation as to how enabling a user to selected services and products that are defined by parameters of service and price is different. Furthermore, Segal explicitly teaches the use of budgetary parameters where a finance database provides budgetary parameters (see Segal paragraph 26). Examiner maintains that these claims are NOT distinguished from claims 1-4 and 8-29 and the grounds of rejection are still maintained. Thus, Examiner is making this rejection final.

In response to Applicants' argument Segal and Buy fail to teach a lifestyle "is associated with at least one of a profession of the decedent or a hobby of the decedent" as per claims 1 and 59 (see Remarks page 19), Examiner respectfully disagrees. As discussed in the Interview (dated March 13, 2008), Examiner asserts that a lifestyle being associated with a profession or a hobby is merely descriptive non-functional data elements and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP*, 2106.

In response to Applicants' argument Segal and Buy fail to teach limitations of several dependant claims, including claims 15, 19-20, 78, 82-83, and 88 (see

Remarks pages 20-22), Examiner respectfully disagrees. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-29, 59, 61-62, 65-66 and 70-93 are rejected under 35 U.S.C.

103(a) as being unpatentable over Segal (Patent Application Publication 2001/0032093) in view of Buycaskets.com (PTO-892, Ref U, hereinafter, "Buy").

Referring to claim 1. Segal discloses a computer-implemented method for creating an online funeral plan, the method comprising:

- Generating a plurality of groupings of products and services each associated with a profile parameter that relates to at least one of a personal funerary preference (Segal: paragraph 0024);
- Receiving user input associated with a profile parameter of the plurality of profile parameters to obtain requested pricing information on a product or service offered by a selected funeral service provider among a plurality of funeral service providers (Segal: paragraph 0012 through 0013);
- Retrieving in response to the user input the requested pricing information by accessing a database storing pricing information associated with a grouping of

products and services associated with the profile parameter and offered by the plurality of funeral service providers (Segal: paragraph 0035),

- Wherein the grouping of products and services are preselected to complement each other and complete aspects of funeral planning, and to individually and collectively accord with the profile parameter that relates to the personal funerary preference of the decedent (Segal: paragraph 0039, “5, “The consumer can choose between either a traditional funeral service or a cremation. Either choice will carry a list of options with a description of each option as explained above.”),
- Wherein each funeral service provider is associated with a distinct set of products and services from the plurality of products and services, and wherein the database maintains pricing information for the set of products and services associated with each funeral service provider (Segal: paragraph 0035);
- Steering generation of the funeral plan according to the profile parameter that relates to the personal funerary preference of the decedent by prompting user selections from the grouping of products and services associated with the profile parameter (Segal: paragraph 0044); and
- Outputting the requested pricing information to the user (Segal: paragraph 0035).

Segal does not expressly disclose a computer-implemented method for creating an online funeral plan, the method comprising: generating a plurality of groupings of products and services each associated with a profile parameter that relates to at least one of a personal funerary preference and a lifestyle of a decedent. Buy discloses a

profile parameter that relates to a lifestyle of a decedent (Buy: Page 3, "Browse: Jewish").

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the method of Segal to have included the teachings of Buy as discussed above in order to offer caskets designed for special needs (Buy: Page 2).

Furthermore, Although Buy fails to explicitly teach that a lifestyle is associated with a profession or a hobby (since Jewish is neither), Examiner asserts that a lifestyle being associated with a profession or a hobby is merely descriptive non-functional data elements and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP*, 2106.

Referring to claim 2. Segal further discloses a method comprising selecting a funeral service provider from the plurality of funeral service providers in response to the user input (Segal: paragraph 0036).

Referring to claim 3. Segal further discloses a method comprising selecting the funeral service provider from a plurality of funeral homes based on criteria chosen from the group consisting of: location, services, products, capacity, pricing information, appearance and reputation (Segal: paragraph 0035 through 0036).

Referring to claim 4. Segal further discloses a method comprising receiving user input from the user to select a collection of products and services to include in the funeral plan (Segal: paragraph 0032).

Referring to claim 8. Segal further discloses a method comprising processing funding of the funeral plan using a payment method selected from the group consisting of: an electronic debit, credit card, insurance, or trust fund (Segal: paragraph 0028).

Referring to claim 9. Segal further discloses a method wherein the steering of the generation of the funeral plan further comprises personalizing aspects of the funeral plan to reflect a religious, professional, personal, or ethnic desire of a deceased in accordance with the user profile parameter and in response to user input (Segal: paragraph 0044, "Referring to FIGS. 5, 7, 9 and 11, if the user chooses a traditional

burial, the user is provided with options for securing a hearse and for buying a casket. Referring to FIGS. 6, 10 and 12, if the user chooses a cremation service, the user is presented with options for cremation providers as well as for purchasing urns. A priest, rabbi or other minister may also be selected to administer the services.").

Referring to claim 10. Segal further discloses a method comprising storing contact information of a family member, friend or associate of the user for notification of a decedent's death (Segal: paragraph 0037).

Referring to claim 11. Segal further discloses a method comprising electronically storing the funeral plan for later retrieval (Segal: paragraph 0022).

Referring to claim 12. Segal further discloses a method comprising initiating the electronic display of the funeral plan on a web site (Segal: paragraph 0020).

Referring to claim 13. Segal further discloses a method comprising modifying the funeral plan in response to user input (Segal: paragraph 0038).

Referring to claim 14. Segal further discloses a method comprising directing user input to a web site, and communicating the pricing information for a products or service to the user via the web site, wherein the pricing information is retrieved from the database (Segal: paragraph 0035 through 0036).

Referring to claim 15. Segal further discloses a method wherein the pricing of a product or service is guaranteed, the method further comprising initiating a display to the user of an electronic image or text representing terms of the guarantee (Segal: paragraph 0039).

Referring to claim 16. Segal further discloses a method comprising initiating the display of an image representative of the product or service to a user (Segal: Fig. 7, "Floral Catalog w/ thumbnails").

Referring to claim 17. Segal further discloses a method comprising scheduling a meeting with a death care professional in response to user input (Segal: paragraph 0027).

Referring to claim 18. Segal further discloses a method comprising initiating the display of contact information to the user enabling personal or electronic communication with the death care professional (Segal: paragraph 0027).

Referring to claim 19. Segal further discloses a method comprising retrieving an estimated cost from the database for a non-guaranteed item. (Segal: paragraph 0039).

Referring to claim 20. Segal further discloses a method wherein the non-guaranteed item is selected from the group consisting of: a floral arrangement, musical performance, clergy, transportation and honorarium costs. (Segal: paragraph 0039).

Referring to claim 21. Segal further discloses a method comprising storing a currency value indicative of client funds that are budgeted to pay for the non-guaranteed item (Segal: paragraph 0039).

Referring to claim 22. Segal further discloses a method comprising storing information related to donations (Segal: paragraph 0037).

Referring to claim 23. Segal further discloses a method comprising initiating the display of a payment status of the funeral plan to the user (Segal: paragraph 0039).

Referring to claim 24. Segal further discloses a method wherein the pricing information includes bids from at least a subset of the plurality of funeral service providers (Segal: paragraph 0035).

Referring to claim 25. Segal further discloses a method comprising relating an offer for the product or service from the user to at least a subset of the plurality of funeral service providers, wherein the offer includes a price range (Segal: paragraph 0034 through paragraph 0035).

Referring to claim 26. Segal further discloses a method comprising associating and recommending to the user a complementary item from the plurality of products and services in response to the user selecting the product or service (Segal: paragraph 0032).

Referring to claim 27. Segal further discloses a method comprising initiating the display of educational information, counseling and Internet links related to the product or service (Segal: paragraph 0027).

Referring to claim 28. Segal further discloses a method comprising verifying the availability of the product or service from among the plurality of funeral service providers (Segal: paragraph 0027).

Referring to claim 29. Segal further discloses a method comprising encrypting user data and funeral plan information in conjunction with creating the funeral plan (Segal: Fig. 1).

Referring to claims 59 and 61-62. Claims 59 and 61-62 contain limitations similar to those as set forth above in claims 1-4 and 8-29. Claims 59 and 61-62 are rejected under the same rationale as set forth above in claims 1-4 and 8-29.

Referring to claims 65-66. Claims 65-66 contain limitations similar to those as set forth above in claims 1-4 and 8-29. Claims 65-66 are rejected under the same rationale as set forth above in claims 1-4 and 8-29. Examiner submits that Segal explicitly teaches databases for multi-service providers. In figures 1 and 2, Segal clearly discloses a "service provider database" (see Figure 2, "21").

Referring to claims 70-92. Claims 70-92 contain limitations similar to those as set forth above in claims 1-4 and 8-29. Claims 70-92 are rejected under the same rationale as set forth above in claims 1-4 and 8-29. Furthermore, Segal explicitly teaches the use of budgetary parameters where a finance database provides budgetary parameters (see Segal paragraph 26). Examiner maintains that these claims are NOT distinguished from claims 1-4 and 8-29.

Referring to claim 93. Claim 93 contains limitations similar to those as set forth above in claims 1-4 and 8-29. Claim 93 is rejected under the same rationale as set forth above in claims 1-4 and 8-29. Furthermore, Segal explicitly teaches the use of budgetary parameters where a finance database provides budgetary parameters (see Segal paragraph 26). Examiner maintains that these claims are NOT distinguished from claims 1-4 and 8-29.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalyan K. Deshpande whose telephone number is (571)272-5880. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art
Unit 3625

/KKD/